

FILED
JAMES BONINI
CLERK

2003 DEC 11 PM 1:49

Audley Casanova
Reg No. 18131-057
FCI Jesup, Unit-EB
Jesup, Georgia 31599
(Pro se Plaintiff)

U.S. DISTRICT COURT
SOUTHERN DIST OHIO
WEST DIV CINCINNATI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
CINCINNATI DIVISION

AUDLEY CASANOVA, :
PLAINTIFF, :
VS. : CASE NO. C-1-00579
PAUL BYERS, :
DEFENDANT. : PLAINTIFF'S REPLY TO THE
 : DEFENDANT'S RESPONSE TO
 : HIS MOTION UNDER FRCVP-60
 : (b).

NOW COMES, the Plaintiff, Audley Casanova, pro se, in the above styled cause and respectfully submits his formal reply to the defendant's response to his motion for relief from judgment, and states:

1. This cause came before this Court upon Casanova's motion from relief from judgment under FRCVP-60(b), which he argued that the original judgment relied upon inaccurate facts, viz. when the cause of action accrued.

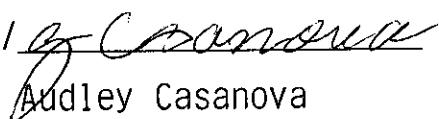
2. The defendant responded on November 25, 2003, in which he argues that the above mention motion is time barred, when any motion filed under 60(b)(1), (2), and (3) beyond one year after the judgment.

3. Casanova now contents that the defendant's position is misplaced, in that, the one year limitation does not expire until the judgment is final. Currently, the judgment that is subject to this matter, has not became final. Plaintiff did in fact appealed said judgment to the United States Court of Appeals for the Sixth Circuit, Case No. 02-3388, and was recently affirmed. But Plaintiff can still seek forward appellate review by filing a writ of certiorari to the U.S. Supreme Court. The time limits to do so has not expired. Assuming arguendo, his appellate remedies where exhausted. He still would have one year from when such judgment became final to petition for relief from judgment, under 60(b).

WHEREFORE, for all of the foregoing reasons, Plaintiff prays that this Court will grant the relief sought under FRCVP-60(b).

Respectfully Submitted,

Dated: 12-02-03

/s/ 
Audley Casanova

CERTIFICATE OF SERVICE

I, hereby certify that a true and exact copy of the foregoing was served on the Defendant at 310 Ezzard Charles Dr., Cincinnati, Ohio 45214, On 12-02-03, with proper postage affixed.

/s/ Samantha